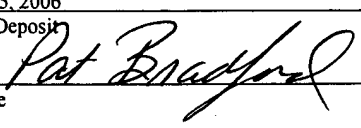
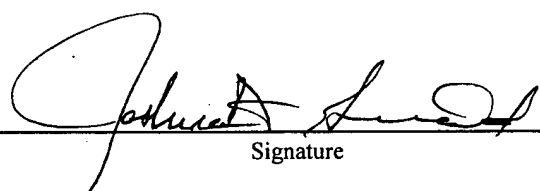


FISH &amp; RICHARDSON P.C.

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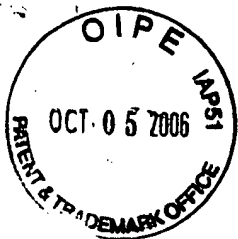
PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 14892-006001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as express mail No. EV663118360US in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.  October 5, 2006 Date of Deposit  Signature  Pat Bradford Typed or Printed Name of Person Signing Certificate	Application Number 09/409,242	Filed September 30, 1999
	First Named Inventor Rahul R. Vaid	
	Art Unit 3626	Examiner Robert W. Morgan
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>46,310</u> (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>		
<p><input type="checkbox"/> Total of no. forms are submitted.</p>		



Signature

Joshua A. Griswold  
Typed or printed name  
(214) 292-4034  
Telephone number

October 5, 2006  
Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Rahul R. Vaid  
Serial No. : 09/409,242  
Filed : September 30, 1999  
Title : PRE-PAID AIRLINE TICKETS

Art Unit : 3626  
Examiner : Robert W. Morgan

**MAIL STOP AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REMARKS SUBMITTED WITH PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

The following is being submitted together with a Notice of Appeal under 37 C.F.R. § 41.31 and in support of a Pre-Appeal Brief Request for Review in the above-identified application.

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EV663118360US

October 5, 2006  
Date of Deposit

### **REMARKS**

In the above-captioned application, a Final Office Action dated July 10, 2006 ("present Final Office Action") finally rejected claims 1-16 and 76-78 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,897,620 to Walker et al. ("Walker") in view of "Hawaiian Air to Offer Tickets Through ATMs" by Wall Street Journal ("Hawaiian Air"). Claims 12-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,897,620 to Walker et al. in view of U.S. Patent No. 5,953,705 to Oneda.

Applicant believes the rejections of record are improper. In support of this position, the below remarks present legal and/or factual deficiencies in the rejections.

#### **1. Walker Requires Airlines to Book Flights for Customers**

The present Final Office Action at page 2, part 10, second paragraph, states, "Walker et al. teaches ... the identifier ... to be utilized by the customer to book a flight" (Walker, col. 3, lines 1-11). However, Applicant respectfully points out that Walker specifically recites in col. 3, lines 1-11,

a system and method for ... transmitting the special fare listing to a buyer; receiving a booking of a ticket corresponding to the special fare listing from the buyer; transmitting the booking information to an airline; and receiving an identification of a flight selected by the airline which fulfills the terms of the ticket. (emphasis added)

The above-cited disclosure by Walker is in direct contrast to Applicant's claim 1, last paragraph, which recites, "book the flight selected by the customer from among the presented flights by exercising the pre-paid, fixed-price option." (emphasis added) Walker requires that the *airline* book the flight for the customer. This distinction has been presented in (i) Applicant's Amendment filed March 1, 2005 at page 7, last paragraph responsive to an Office Action dated December 1, 2004 and (ii) Applicant's Amendment filed April 3, 2006 at page 10 responsive to an Office Action mailed on December 1, 2005.

**2. Hawaiian Air's "Open Ticket" Cannot be Combined with Walker's System**

The present Final Office Action in the paragraph bridging pages 3 and 4, states,

Hawaiian Air plans to allow customer[s] and non-customer[s] of Bank of Hawaii to buy flight coupons through the bank's ATMs 24 hours a day using a card issued by the bank or a major credit card (see paragraph 4).

The present Final Office Action states at the end of the same paragraph that, "[s]ince Hawaiian Air is issuing 'open tickets' which are valid for [a] year the skilled artisan expects an 'open ticket' to include an identifier ...." The understood reason stated in the present Final Office Action for making the assumption of the "open ticket" having an identifier, which Applicant does not oppose, is to combine Walker with Hawaiian Air because, as stated in the present Final Office Action, page 3, first full paragraph, "Walker et al. fails to teach an identifier associated with [and] uniquely identifying the record for the customer to [use] to exercise the pre-paid, fixed price option."

Applicant, however, respectfully submits that Hawaiian Air's "open ticket," with or without an identifier, does not overcome Walker's failure to teach Applicant's claim 1 for reasons presented above in remark no. 1. Moreover, Applicant has set forth examples illustrating what would happen to a traveler who attempted to use Walker's system combined with Hawaiian Air's "open ticket" in the Amendment filed on March 1, 2005 on pages 8 through 10. The examples set forth therein include multiple reasons why the combination of Walker and Hawaiian Air cannot be made and, thus, is not sufficient to render the claims prima facie obvious.

Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 103(a) be withdrawn. Claims 2-16 and 76-78, which depend from independent claim 1, should be allowable for at least the same reasons.

**3. Oneda's Ticketless System does not make up for the Shortcomings of Walker**

Oneda is directed to a ticketless system in which airline ticket information may be stored in an integrated circuit (IC) and the traveler may use the IC when checking in for a flight.

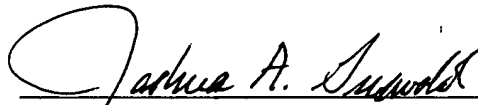
Oneda, however, fails to address the shortcomings of Walker with respect to independent claim 1 for reasons presented above. Therefore, claims 12 and 13 under 35 U.S.C. § 103(a) should be allowable for at least the same reasons as claim 1. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) of claims 12 and 13 be withdrawn.

In view of the above, and for other reasons clearly apparent, Applicant respectfully submits that the Application is in condition for allowance, and requests such a Notice.

A check in the amount of \$250.00 is enclosed for the appeal fee. No additional fees are believed due. Please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date: 10/5/06

  
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